

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

INTAGIO CORPORATION,

Plaintiff,

v.

TIGER OAK PUBLICATIONS, INC.,

Defendant.

No. C 06-3592 PJH

**ORDER RE DEFENDANT'S  
APPLICATION FOR A  
TEMPORARY STAY**

Before the court is defendant's Ex Parte Application for a Temporary Stay. Defendant seeks to stay discovery in the instant action, pending the completion of the parties' upcoming mediation, or in the alternative, pending the court's hearing and resolution of defendant's motion to dismiss.

While labeled an "ex parte" application, defendant's motion is no such thing. Defendant does not request any proceeding or relief without notice to the opposing party. Nor could defendant do so, unless expressly authorized by statute or local rule. See Civ. L.R. 7-10. Defendant has not relied on an authorizing statute or local rule, despite its invocation of Federal Rule of Civil Procedure 65(b), since that rule governs the filing of temporary restraining orders, not requests for discovery stays such as the one here.

Notwithstanding the above, the court will treat defendant's request for a discovery stay as if it were a properly filed request to shorten time for a hearing on defendant's motion to stay, and GRANTS the request to shorten time. However, both parties having fully briefed the merits of defendant's request for a motion to stay discovery, the court finds the matter ready for resolution without a hearing, and therefore rules as follows:

Defendant's request for a motion to stay discovery is DENIED.

**IT IS SO ORDERED.**

Dated: January 4, 2007



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PHYLLIS J. HAMILTON  
United States District Judge